

### REMARKS

Claims 1-40 are currently pending with claims 1, 14, 20, 28, and 33 being in independent form. Claims 20-32 have been allowed. Claims 4, 9, and 19 have been indicated as being allowable if rewritten in independent form including all of the features of their base claim and any intervening claims.

Independent claims 1, 14, and 33 have been amended in this amendment. Claims 1 and 14 have been amended to recite that the textured surface area has a bottom boundary and at least a portion of the longitudinal groove extends below the bottom boundary of the textured area. Claim 33 has been amended to recite that the textured surface area includes a boundary and a portion of at least one of said first longitudinal groove and said second longitudinal groove extends beyond said boundary of said textured surface area. Support for these amendments is provided in the specification and drawings as originally filed and in particular paragraphs [0043]; [0051]; [0066]; and [0067] and Figures 2, 6, and 7.

No new matter has been added.

It is respectfully requested that this amendment be entered as it does not introduce new issues that require further search and/or consideration. The concept of the longitudinal groove extending beyond the textured surface has already been considered for patentability purposes as evidenced by the indication of allowability of claims 4 and 19 which specify that the longitudinal groove extends from adjacent the bottom of the inner tube towards the open top of the inner tube to a location adjacent the textured surface area.

### Response to Rejections

The present invention is directed to a container assembly and a method for making a container assembly wherein the container assembly includes an inner tube within an outer tube and a venting pathway extending between the inner and outer tube wherein the venting pathway comprises a **combination** of a textured surface area **and** a longitudinal groove for allowing air to vent to atmospheric pressure during insertion of the inner tube within the outer tube. Since the overall profiles and geometries of the tubes provide for substantially contacting relation between the inner surface of the outer tube and the outer surface of the inner tube, at least at some point during the insertion of the inner tube within the outer tube, the longitudinal groove provides an escape route for any trapped air during this insertion. The protrusions provide

for a tight fit for the assembly to secure the outer tube and inner tube together while still providing a route between the peaks for air to escape. The circuitous paths also act to inhibit liquid from passing from the inner tube into the circumferential space between the tubes.

**Double Patenting Rejection**

Claims 1-3, 5-8, 10-18, and 33-40 are rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 1-22 of United States Patent No. 6,651,835 to Iskra (hereinafter "the Iskra patent").

The Office Action asserts that these claims are encompassed by or rendered obvious by claims 1-22 of the Iskra patent. Applicant respectfully traverses this rejection as Iskra fails to teach or render obvious the claimed feature of a **combination** of a longitudinal groove **and** a textured surface wherein at least a portion of the longitudinal groove extends below a boundary of the textured surface.

Accordingly, it is respectfully requested that the rejection of claims 1-3, 5-8, 10-18, and 33-40 under the doctrine of obviousness-type double patenting be withdrawn as claims 1-22 of the Iskra patent fails to encompass or render the claims of the present application obvious.

**Claim Rejections under 35 §U.S.C. 102(b) and 35 §U.S.C. 103(a)**

Claims 1-3, 5-7, 10-18, and 33-40 are rejected under 35 §U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 §U.S.C. 103(a) as being obvious over United States Patent Application Publication No. 2002/0011492 to Iskra (hereinafter "the Iskra reference"). The Office Action asserts that the Iskra reference shows in Figure 4 a collection container having a variety of paths through a textured area. The Office Action acknowledges that the Iskra reference teaches a "circuitous path" whereas the instant claims recite a "longitudinal groove" but asserts that the two terms are not exclusive and that the "circuitous paths" of the Iskra reference anticipates and/or renders obvious the "longitudinal groove" of the claims.

Applicant respectfully traverses this rejection.

Independent claims 1, 14, and 33 recite a **combination** of a textured surface **and** a longitudinal groove. As stated above, this combination results in the escape of trapped air during insertion of an inner tube within an outer tube wherein the overall geometries of the tubes provide for tight tolerances between the outer surface of the inner tube with the inner surface of

the outer tube. In particular, the longitudinal groove provides for an escape route for trapped air during insertion and the textured surface provides tight fit for the assembly to secure the outer tube and inner tube together while still providing an escape route between the peaks for the trapped air.

The Iskra reference teaches away from this longitudinal groove at paragraph [0022] which specifically calls for an annular clearance “e” of approximately 0.006 inches between the cylindrical portion 32 of the sidewall 30 of the inner tube 14 and side wall 22 of outer tube 12. This annular clearance allows for the air to escape during insertion of the inner tube into the outer tube and thus, the provision of an annular groove, as set forth in the claims, is not necessary.

In any event, independent claims 1, 14, and 33 have been further amended to recite that the textured surface area has a bottom boundary and at least a portion of the longitudinal groove extends below the bottom boundary of the textured area. This amendment clearly specifies that the textured surface and the longitudinal groove are **two separate members** and the claimed invention defines a **combination** of these two features. The Iskra reference fails to anticipate or render obvious this claimed combination of a textured surface and a longitudinal groove.

Claims 2-3, 5-7, 10-13, 15-18, and 34-40 depend from and further limit independent claims 1, 14 and 33. Accordingly, these claims are allowable at least for the reasons set forth above with respect to the independent claims.

Accordingly, in view of the amendments to the claims and the reasons set forth above, it is respectfully requested that the rejection of claims 1-3, 5-7, 10-18, and 33-40 under 35 §U.S.C. 102(b) and under 35 §U.S.C. 103(a) be withdrawn as the Iskra reference fails to anticipate and/or render obvious these claims.

### **Response to Arguments**

The Office Action notes that the Iskra reference teaches that longitudinal grooves are not required to achieve efficient nesting, but these passages do not change the fact that the Iskra reference discloses a roughened surface having peaks and valleys, which can include a longitudinal groove. The Office Action concedes that the Iskra reference teaches away from the use of a longitudinal groove *in addition to the roughened surface and outside the roughened*

*surface portion* and for this reason, claims 4 and 19 have been cited as containing allowable subject matter as these claims clearly place the longitudinal groove outside of the textured surface area.


Accordingly, in view of these comments, independent claims 1, 14, and 33 have been amended to clearly recite that at least a portion of the longitudinal groove is positioned outside of the textured surface area, *i.e.*, outside of a boundary of the textured surface. As this concept has previously been considered and deemed allowable, it is respectfully requested that the proposed amendment to claims 1, 14 and 33 be entered as it does not present new issues requiring further search and/or consideration.

### **CONCLUSION**

Applicant acknowledges with thanks the allowance of claims 20-32 and the indication of allowability of claims 4, 9, and 19. In view of the amendments to claims 1, 14, and 33 and for the reasons set forth above, allowance of all claims in the application, namely claims 1-40, is respectfully requested.

Should the Examiner have any questions regarding any of the foregoing or wish to discuss this application in further detail to advance prosecution, the Examiner is invited to contact Applicant's undersigned representative at the telephone number provided below.

Respectfully submitted,  
THE WEBB LAW FIRM

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